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February 17, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MM Docket No. 97-234
GC Docket No. 92-52
GEN Docket No. 90-264

Dear Ms. Salas:

On behalf of Arnold Broadcasting, Inc., there is transmitted herewith and filed an original and four (4) copies of its "Reply Comments" in the above-captioned proceedings.

Should any questions arise with respect to this matter, please contact the undersigned counsel.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS
& HANDLER, LLP

By: 

Bruce A. Eisen

Enclosure

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Implementation of Section 309(j))	MM Docket No. 97-234
of the Communications Act)	
-- Competitive Bidding for)	
Commercial Broadcast and)	
Instructional Television Fixed)	
Service Licenses)	
)	
Reexamination of the Policy)	GC Docket No. 92-52
Statement on Comparative)	
Broadcast Hearings)	
)	
Proposals to Reform the Commission's)	GEN Docket No. 90-264
Comparative Hearing Process to)	
Expedite the Resolution of Cases)	

TO: The Commission

REPLY COMMENTS OF ARNOLD BROADCASTING, INC.

Arnold Broadcasting, Inc., by its attorney, hereby replies to the Comments in the above-captioned rulemaking proceeding filed on behalf of New Life Evangelistic Center, Inc. ("NLEC"). In support thereof, the following is shown:

1. NLEC filed Comments with regard to the Commission's Notice of Proposed Rulemaking, FCC 97-397, released November 26, 1997 ("NPRM"), asserting that the Commission should publish an "A Cut-Off List" for applications that were tendered to the

Commission prior to July 1, 1997. Such action is unwarranted and would contravene Congress' intent.

2. The NPRM proposes that pre-July 1, 1997 applicants be treated as the only parties eligible to be qualified bidders at a federal auction. The Commission tentatively concluded that new Section 309(l) required the agency to use auctions for mutually-exclusive applications filed before July 1, 1997.

3. Applicants who have filed pre-July 1, 1997 applications expended considerable monies, resources and time in order to prepare and file their applications. This included arranging financing for the proposals, locating suitable transmitter sites and engaging professional assistance in compiling the applications.

4. In light of the Congressional pronouncement contained in its Conference Report¹, and because there are clear public benefits in precluding any further filing windows for pre-July 1, 1997 applications, NLEC's position must be rejected. There is no question but that the public will receive television service more

¹ H.R. Conf. Rep. 217, 105th Cong. 1st Sess. 573 (1997).

promptly by moving forward to auction without undermining the Congressional intent and artificially opening a further filing window. Surely, no potential applicant can be prejudiced by the proposal because the availability of television frequencies have all been established by public notice in the past. NLEC's predicament was brought about by its own failure to request a waiver of the July 1987 application freeze, so it can hardly argue that its circumstances in some way justify a procedure that accords only with its own myopic interests.

5. Those applicants who were sincerely interested in providing television service to a given area, and who were willing to undertake the careful thought and technical evaluation necessary before filing an application, have properly tendered applications to the Commission. This is a class of filers who will take very seriously the consequences of bidding in a federal auction. To allow new applications to be filed in response to a filing window, would allow incipient applicants to clone previously-filed proposals, expend less resources and attain a better position to accumulate resources with which to bid.

6. The Commission should adhere to its proposal as set forth in the NPRM, and in so doing comply with the intent of Congress in enacting Section 309(1).

Respectfully submitted,

ARNOLD BROADCASTING, INC.

By: 

Bruce A. Eisen
Its Attorney

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February 17, 1998

CERTIFICATE OF SERVICE

I, Toni R. Daluge, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 17th day of February, 1998, a copy of the foregoing "Reply Comments of Arnold Broadcasting, Inc." was sent via United States mail, postage prepaid, to the following:

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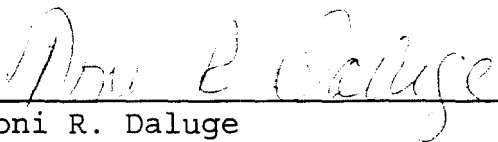
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